

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 2422 of 2009 ()

CRL.A 189/2009 of ADDL.SESIONS COURT (ADHOC)-II, ERNAKULAM
CC 917/2006 of J.M.F.C.-II, KOCHI

REVISION PETITIONER(S)/APPELLANT/ACCUSED:

A.M.HABEEBULLA, S/O. MOITHU,
AGED 55 YEARS, C/O. KUNJUMARAKKAR, RAZIA MANZIL
ELOOR NORTH, UDYOGAMANDAL, KOCHI-683 501.

BY ADVS.SRI.V.JOHN SEBASTIAN RALPH
SMT.PREETHY KARUNAKARAN

RESPONDENTS/RESPONDENT/COMPLAINANT:

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1. PATSY SHEELA JOSEPH, AGED ABOUT 50 YRS,
W/O. AUGUSTINE, LANTHAPARAMBIL HOUSE, MUNDAMVELI
KOCHI-7.
 2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH
R1 BY ADV. SRI.THOMAS CHAZHAKKARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
01-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.2422 of 2009

Dated this the 1st day of December 2015

O R D E R

The accused in C.C. No.917 of 2006 on the files of the Court of the Judicial Magistrate of First Class - II, Kochi has filed this revision petition challenging the concurrent finding of conviction and sentence passed by the courts below under Section 138 of the Negotiable Instruments Act (for short 'the N.I. Act).

2. Heard.

3. The prosecution allegation is that the revision petitioner executed Ext.P1 cheque in favour of the complainant towards the discharge of the liability to the

complainant. The complainant presented the said cheque for encashment. However, the same was dishonoured as the account was closed by the revision petitioner. Statutory notice was received by the revision petitioner.

4. Before the trial court, PW1 was examined and Exts.P1 to P9 were marked for the complainant. DW1 was examined for the revision petitioner.

5. The courts below correctly appreciated the oral and documentary evidence adduced by the parties and concurrently found that the revision petitioner had executed Ext.P1 cheque as contemplated under Section 138 of the N.I. Act and committed the offence under Section 138 of the N.I. Act, repelling the contentions of the revision petitioner. No material is produced before me to find that the concurrent finding by the courts below is

perverse or incorrect. In the said circumstances, the concurrent finding by the courts below that the revision petitioner committed the offence under Section 138 of the N.I. Act does not warrant any interference by this court.

6. The appellate court had taken a very lenient view in the matter of sentence and therefore, the sentence awarded by the appellate court also does not call for any interference by this court.

In the result, this revision petition stands dismissed.

The revision petitioner is granted six months to pay the fine, as requested by the learned counsel for the revision petitioner.

SD/
B.SUDHEENDRA KUMAR,
JUDGE

dl/4.12.2015

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PA to Judge